

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7404**

**BILL NUMBER:** HB 1260

**NOTE PREPARED:** Feb 7, 2003

**BILL AMENDED:** Feb 6, 2003

**SUBJECT:** Withholding Judgment of Conviction.

**FIRST AUTHOR:** Rep. Avery

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

(A) It allows a court to withhold judgment of conviction for a Class D felony under certain circumstances.  
(B) It provides that a court may order supervision of an offender placed on home detention who resides in a contiguous county by the probation department or community corrections program located in the county of the sentencing court.

**Effective Date:** July 1, 2003.

**Explanation of State Expenditures:** *Provision A:* If courts withhold judgements for Class D felonies, there may be fewer offenders committed to Department of Correction (DOC) facilities.

A Class D felony is punishable by a prison term ranging from six months to three years. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

See also *Explanation of Local Expenditures*.

**Explanation of State Revenues:** *Provision A:* Revenue to the Common School Fund could be affected if the sentencing court decides to reduce a conviction to a Class A misdemeanor. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

**Explanation of Local Expenditures:** (Revised) *Provision A:* Under this bill, a court could delay judgement of conviction for a Class D felony for up to three years. The court could set conditions for the defendant with which to comply if the defendant wishes to avoid being convicted of a Class D felony. Depending on the restrictions the court wishes to impose, the defendant may remain under the supervision of the local probation department for up to three years. This compares to a maximum length of time of 12 months if the court enters a judgment of a Class A misdemeanor.

If defendants are assigned to probation after sentencing, the workload for probation departments may increase.

*Background Information:* Under current law, if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor if:

- the person has not committed a prior, unrelated felony that was not reduced to a Class A misdemeanor within the last three years; and
- the current offense is not a domestic battery as a Class D felony (IC 35-42-2-1.3), an auto theft (IC 35-43-4-2.5), or receiving stolen auto parts (IC 35-43-4-2.5).

In addition, under current law, the court is required to enter judgement of conviction after a verdict, finding, or plea of guilty at the time of sentencing and may not withhold judgment until a further date.

*Provision B:* Under current law, if an offender is a resident of another county, the probation department from which the county is a resident would be required to perform all home detention supervision. As amended, the county in which the offender is sentenced could take responsibility for home detention supervision. It is possible that more offenders could be placed on home detention in these situations. Generally, a portion of the costs of home detention is covered by the fees paid by the offenders.

**Explanation of Local Revenues:** *Provision A:* Offenders sentenced to probation as a misdemeanant may pay an initial user fee of not more than \$50 and a maximum \$10 monthly probation user's fee.

See *Explanation of State Revenues*. The court fee for both misdemeanors and felonies is \$120.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.

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